

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CLEVELAND WHITE,	:	
		Case No. 3:05CV107
Plaintiff,	:	
vs.	:	District Judge Thomas M. Rose
		Magistrate Judge Sharon L. Ovington
CITY OF DAYTON POLICE	:	
DEPARTMENT, et al.,	:	
Defendants.	:	
	:	

ORDER

This case is before the Court upon Defendant Officers Michael Fuller and Jose Hernandez's Motion to Compel (Doc. #20), to which Plaintiff has not responded. In the absence of a response by Plaintiff, Defendants' Motion, Memorandum, and the attached affidavit of Defendants' counsel establish that Plaintiff has not satisfied his duty to respond to Defendants' Interrogatories and Requests for Production of Documents as mandated by the Federal Rules of Civil Procedure. Good cause therefore exists to grant Defendants the discovery they seek pursuant to Fed. R. Civ. P. 37.

Defendants also seek an award of attorney fees they incurred in obtaining this Order. Defendants, however, have not submitted an affidavit indicating the amount of attorney fees they seek. In addition, although Plaintiff has not fully responded to Defendants' discovery requests, Defendants indicate that Plaintiff has provided a few pages of medical records and has indicated that he claims to have a video recording of the incident in question. Because production of a copy of the video will likely cause Plaintiff some expense, and because he has at least attempted, albeit minimally, to provide some discovery, the Court finds that sanctions are unwarranted at this time.

Plaintiff, however, is placed on notice that a failure to comply with this Order may warrant a further Order imposing monetary or other sanctions against him, including dismissal of this case, pursuant to Fed. R. Civ. P. 37.

Accordingly, the Court hereby **ORDERS** that:

1. Defendant Officers Michael Fuller and Jose Hernandez's Motion to Compel (Doc. #20) is **GRANTED** in part, and **on or before September 15, 2006**, Plaintiff shall complete written responses to Defendants' First Set of Interrogatories and First Request for Production of Documents;
2. **On or before September 21, 2006**, Plaintiff shall provide copies of the documents sought by Defendants' First Request for Production of Documents; and
3. Defendant Officers Michael Fuller and Jose Hernandez's Motion to Compel (Doc. #20) is **DENIED** in part to the extent it seeks an award of attorney fees as sanctions.

August 29, 2006

s/Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge